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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,307	09/16/2005	Carsten Protze	2003P03607	3492
24131 7590 10/15/2008 LERNER GREENBERG STEMER LLP P O BOX 2480 HOLLYWOOD, FL 33022-2480				
EXAMINER				
MOHANDESI, IRAJ A				
ART UNIT		PAPER NUMBER		
2834				
MAIL DATE		DELIVERY MODE		
10/15/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,307

Applicant(s)

PROTZE, CARSTEN

Examiner

IRAJ A. MOHANDESI

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/US)
Paper No(s)/Mail Date 09/16/2008
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's request of rejoinder of 08/26/2008 is acknowledged.

This is not found persuasive because the Inventions I and II are related as product and process of use.

The inventions can be shown to be distinct if either or both of the following can be shown: (II) the process for using the product as claimed can be practiced with another materially different product or (I) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h).

3. In the instant case a linear drive can be operate with one movable part and abase and also the method for operation of a magnetic device can be used for any electromechanical machine with one or tow movable parts.

4. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

The requirement is still deemed proper and is therefore made FINAL.

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 09/16/2005.
2. The submission is in compliance with the provisions of 37 CFR 1.97.

Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 are under 35 U.S.C. 102(b) as being anticipated by Putt US patent 4,340,846.

Regarding claim 1 ,Putt US patent'46 discloses a magnetic apparatus for linear drive comprising a base (2,4, See Fig. 1)and a first movable part (8), which can be moved along an axis, wherein a first magnetic force effect for movement of the first movable part is produced between the base and the first movable part, and a second magnetic force effect for movement of a second movable(10) part is produced between the first movable part and the second movable part, which can be moved along the axis,

wherein the second movable part is mounted such that it can move on the first movable part (see column 3 ,lines 9-34).

5. Regarding claim 2 ,Putt US patent'46 discloses a magnetic apparatus for linear drive a first and a second permanent magnet (8,10, see column 5, line 46-55) .

6. Regarding claim 3 ,Putt US patent'46 discloses a magnetic apparatus for linear drive further comprising field windings (14, see Fig. 1) arranged at a fixed angle with respect to the first movable part.

7. Regarding claim 4 ,Putt US patent'46 discloses a magnetic apparatus for linear drive wherein the second movable part is a plunger-type armature (14 see Fig.1).

8. Regarding claim 5 ,Putt US patent'46 discloses a magnetic apparatus for linear drive, wherein each of the movable parts has an associated field winding (8,14).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to IRAJ A. MOHANDESI whose telephone number is (571)272-2028. The examiner can normally be reached on Monday -Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tran N. Nguyen/
Primary Examiner, Art Unit 2834

I Mohandesi
September 30, 2008